

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

AGGREKO, LLC, a foreign limited liability company,)	
)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-07-888-M
)	
D AND D EQUIPMENT AND SUPPLY COMPANY, an Oklahoma corporation,)	
)	
)	
Defendant.)	

ORDER

On November 5, 2007, defendant D and D Equipment and Supply Company was served. *See* Return of Service [docket no. 5]. The time for defendant to answer or otherwise plead or move has expired. *See* Fed. R. Civ. P. 12(a)(1)(A). Defendant D and D Equipment and Supply Company has filed no entry of appearance, answer, request for extension of time, or any other motion. On February 7, 2008, plaintiff filed a Motion for Default Judgment [docket no. 11].¹

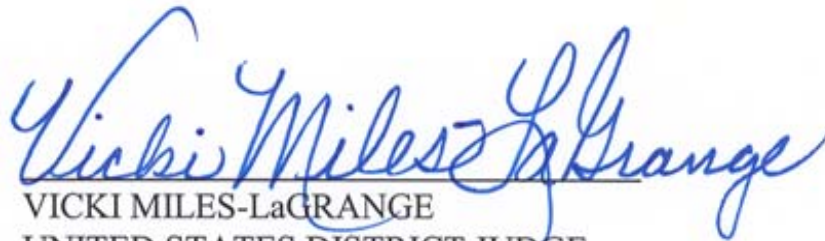
Based upon the above, the Court finds defendant D and D Equipment and Supply Company is in default. If a court determines that a defendant is in default, the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true. 10A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice and Procedure § 2688, at 58-59 (3d ed. 1998). The Court, taking the factual allegations of the Complaint as true, finds that plaintiff is entitled to judgment on its claims. Additionally, having reviewed the motion for default judgment and the attached affidavits and other evidentiary materials supporting plaintiff's claim for damages, the Court finds that plaintiff is entitled to damages in the amount of \$114,327.00. Finally, the Court

¹Plaintiff has attached to its motion affidavits and other evidentiary materials supporting its claim for damages.

finds, pursuant to Okla. Stat. tit. 12, § 940, that plaintiff is entitled to recover its attorney fees incurred in pursuing this matter.

Accordingly, the Court GRANTS plaintiff's Motion for Default Judgment [docket no. 11], ORDERS that default judgment be entered against defendant D and D Equipment and Supply Company forthwith, and ASSESSES damages in the amount of \$114,327.00,² plus costs in the amount of \$383.00, and attorney fees in the amount of \$2,410.00. Interest shall accrue at the rate permitted by 28 U.S.C. § 1961. A separate judgment will issue.

IT IS SO ORDERED this 10th day of March, 2008.



VICKI MILES-LAGRANGE
UNITED STATES DISTRICT JUDGE

²As established by the affidavits attached to plaintiff's motion, this sum consists of \$83,204.00 for damage to the cooling tower, \$5,443.00 in freight charges, \$2,000.00 in labor for having the tower loaded and unloaded, and \$23,680.00 in lost income.